

## RULEMAKING NOTICE FORM

Notice Number 2015-5

Rule Number He-W 636.10, He-W 637.06,  
He-W 637.18, He-W 655.03,  
He-W 655.07

<p>1. Agency Name &amp; Address:</p> <p><b>Department of Health and Human Services Division of Family Assistance 129 Pleasant St, Brown Bldg. Concord, NH 03301</b></p>	<p>2. RSA Authority: <u><b>RSA 167:3-c,I &amp; RSA 167:83,II(o)</b></u></p> <p>3. Federal Authority: _____</p> <p>4. Type of Action:</p> <p>Adoption _____</p> <p>Amendment _____</p> <p>Repeal _____</p> <p>Readoption <u><b>X</b></u></p> <p>Readoption w/amendment <u><b>X</b></u></p>
<p>5. Short Title: <b>Expiring Rules Related to the Financial Assistance to Needy Families (FANF) Financial Assistance Program</b></p>	

6. (a) Summary of what the rule says and of any proposed amendments:

**The Department is proposing to readopt He-W 637.06, He-W 637.18, He-W 655.03, and He-W 655.07 and readopt with amendment He-W 636.10, as these rules are slated to expire April 19, 2015, but are subject to extension pursuant to RSA 541-A:14-a.**

**The rules are summarized as follows:**

- **He-W 636.10 describes the sanctions for the Family Assistance Program (FAP) and New Hampshire Employment Program (NHEP) financial assistance applicants and recipients who fail to comply with child support requirements without good cause. The proposed amendments to the rule specify the applicable sections of the RSA, and add the full name of the financial assistance programs impacted.**
- **He-W 637.06 describes the process the NHEP participant must follow to avoid an NHEP work program sanction.**
- **He-W 637.18 describes when NHEP participants will be expected to participate in interim activities in the NHEP work program, the special requirements for individuals who verify they can not participate in NHEP work activities because they are or have been battered or subjected to extreme cruelty, and the sanctions for failure or refusal to cooperate.**
- **He-W 655.03 describes eligibility for child care assistance.**
- **He-W 655.07 describes the conditions by which NHEP work program participants may receive tuition assistance.**

**Current Department policy remains unchanged.**

6. (b) Brief description of the groups affected:

**Applicants and recipients of FANF cash assistance are affected by these rules.**

6. (c) Specific section or sections of state statute or federal statute or regulation which the rule is intended to implement:

<b>Rule</b>	<b>RSA/Federal Citation</b>
He-W 636.10	RSA 167:79,VI(a); RSA 167:82,II, III & V; 42 USC 608(a)(2)
He-W 637.06	RSA 167:82,III – V; RSA 167:83,II(o) & III(h); RSA 167:85; 42 USC 607(e)
He-W 637.18	RSA 167:78,XII-a; RSA 167:82,V; RSA 167:85,IV(n); RSA 167:88,IV(a)-(e); RSA 167:91; 42 U.S.C. 608(a)(7)(C)(iii); 45 CFR 260.55
He-W 655.03	RSA 167:86
He-W 655.07	RSA 167:85,IV; RSA 167:86; RSA 167:91,IV; 45 CFR 261.2(i) & (k); 42 USC 607(d)

7. Contact person for copies and questions including requests to accommodate persons with disabilities:

Name: **Catherine Bernhard** Title: **Administrative Rules Coordinator**  
Address: **Dept. of Health & Human Services** Phone #: **271-9374**  
**Administrative Rules Unit** Fax#: **271-5590**  
**129 Pleasant Street** E-mail: **catherine.bernhard@dhhs.state.nh.us**  
**Concord, NH 03301**

TTY/TDD Access: Relay NH 1-800-735-2964 or dial 711 (in NH)

**The proposed rules may be viewed and downloaded at:**

<http://www.dhhs.nh.gov/oos/aru/comment.htm>

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **Thursday February 19, 2015**

☒ Fax

☒ E-mail

☐ Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Thursday February 12, 2015 at 1:00 p.m.**

Place: **[DHHS, Brown Bldg, Room 232, 129 Pleasant St., Concord, NH 03301](#)**

**10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant)**

FIS # 14:194, dated 12/19/14

**1. Comparison of the costs of the proposed rule(s) to the existing rule(s):**

There is no difference in cost when comparing the proposed rules to the existing rules.

**2. Cite the Federal mandate. Identify the impact of state funds:**

No federal mandate, no impact on state funds.

**3. Cost and benefits of the proposed rule(s):**

**A. To State general or State special funds:**

None.

**B. To State citizens and political subdivisions:**

None.

**C. To Independently owned businesses:**

None.

11. Statement Relative to Part I, Article 28-a of the N.H. Constitution:

**The proposed rules do not create a new program or responsibility, expand or modify an existing program or responsibility, or mandate any fees, duties or expenditures on the political subdivisions of the state, and therefore do not violate Part I, Article 28-a of the N.H. Constitution.**

**Readopt with Amendment He-W 636.10, effective 4/19/07 (Document #8869), to read as follows:**

He-W 636.10 Sanction for Failure to Cooperate.

- (a) A sanction of 25% of the payment standard of family assistance program (FAP) financial assistance shall be implemented, in accordance with 42 U.S.C. 608(a)(2), for any individual receiving FAP financial assistance who fails to cooperate with child support requirements without good cause as described in RSA 167:82, III(b).
- (b) Individuals receiving New Hampshire employment program (NHEP) financial assistance who fail to cooperate with child support requirements without good cause as described in RSA 167:82, III(b) shall be sanctioned as authorized by RSA 167:79, VI(a).

**Readopt He-W 637.06, effective 4/19/07 (Document #8869), to read as follows:**

He-W 637.06 Failure to Participate/Comply.

(a) To avoid being sanctioned, pursuant to RSA 167:82, V, for failing or refusing to comply with an NHEP requirement, the individual shall:

- (1) Pursuant to RSA 167:83, III, be advised in writing of the:
  - a. Specific act of non-compliance which constitutes grounds for the sanction;
  - b. Specific action required by the individual to remove the sanction;
  - c. Opportunity to claim good cause as described in He-W 637.07; and
  - d. Right to request an administrative appeal, pursuant to He-C 200.
- (2) Contact the NHEP representative to explain the reason for the act of non-compliance; and
- (3) Provide verification:
  - a. Showing that the individual did comply; or
  - b. Substantiating a good cause claim.

(b) The individual shall have 7 business days from either the date of the notification of non-compliance or the verified postmark date of the notice as supplied by the individual, whichever is later, to meet the requirements described in (a) above.

(c) Failure to meet the requirements described in (a) above within the time period described in (b) above shall result in the individual being sanctioned, pursuant to RSA 167:82, V, no later than 10 business days from the date of the notification of non-compliance.

(d) For an individual who participates in NHEP voluntarily, no sanction shall be applied.

(e) NHEP participants who voluntarily quit unsubsidized positions without good cause shall be subject to sanctions as specified in RSA 167.82, III(c) and (d).

**Readopt He-W 637.18, effective 4/19/07 (Document #8869), to read as follows:**

He-W 637.18 Interim Activities.

(a) NHEP participants shall be required to participate in the specific interim activities identified in RSA 167:91,III(a)-(e) aimed at resolving temporary serious and substantial personal barriers, provided that these activities to which the NHEP participant is referred are specified on the employability plan and:

- (1) Are covered by Medicaid, pursuant to He-W 530 through He-W 590;
- (2) Do not generate a cost to the NHEP participant if the specified activities are not covered by Medicaid pursuant to (a)(1) above; or
- (3) Are an allowable NHEP support service payment pursuant to He-W 699.

(b) Pursuant to RSA 167:91,III, NHEP participants shall be required to participate in the specific interim activities identified in RSA 167:91,III(f)-(i) aimed at success in the workforce as specified on the employability plan.

(c) NHEP participants who make claims to the department that they are or have been battered or subjected to extreme cruelty as described in 42 U.S.C. 608(a)(7)(C)(iii), and provide verification pursuant to He-W 602.10(a)(1) after claiming that they can not participate in NHEP activities due to the domestic violence situation, shall:

- (1) Be referred to the NHEP representative; and
- (2) Participate in an assessment and any other activities as identified on the service plan, pursuant to 45 CFR 260.55.

(d) The provisions of He-W 637.06 and RSA 167:82,V shall apply if the individual refuses or fails to cooperate with:

- (1) NHEP work program requirements;
- (2) The individualized assessment pursuant to 45 CFR 260.55; or
- (3) The development of an employability or service plan.

**Readopt He-W 655.03, effective 4/19/07 (Document #8869), to read as follows:**

He-W 655.03 Eligibility for Child Care. Eligibility for child care shall be determined pursuant to He-C 6910.

**Readopt He-W 655.07, effective 4/19/07 (Document #8869), to read as follows:**

He-W 655.07 Tuition Assistance.

(a) Tuition assistance shall be authorized for NHEP participants who meet the conditions of He-W 655.02(c).

(b) NHEP participants shall be the only individuals financially eligible for tuition assistance, when:

(1) The NHEP participant is engaged in approved NHEP activities; and

(2) The program requiring tuition assistance is identified on the NHEP participant's employability plan.

(c) Tuition assistance shall be provided to NHEP participants engaged in approved:

(1) Educational programs leading to a high school diploma or equivalent, or to basic literacy;

(2) Vocational educational training programs;

(3) Post secondary educational programs; or

(4) Course of study preparatory to employment.

(d) Tuition assistance shall be provided only when there are no other sources of tuition funding available to the NHEP participant and the participant has exhausted all other tuition funding sources;

(e) The training program or course of study to be pursued shall be consistent with the NHEP participant's employability plan;

(f) NHEP participants shall be eligible for tuition assistance if the vocational educational training program or course of study:

(1) Prepares the NHEP participant for participation in either a certificate program, degree, or employment;

(2) Leads to employment advancement, a certificate, or degree in an area of specialization; or

(3) Is a single training course or course(s) of study which:

a. Is vocationally specific;

b. Is supported by the employment goals as indicated on the approved employability plan; and

c. Improves the NHEP participant's immediate employment prospects.

(g) Tuition assistance shall be authorized only after all available NHEP participant resources have been applied against education expenses, such as the participant's own financial resources, veterans' educational benefits, insurance, scholarships, grants, and/or work study income.

(h) The NHEP participant shall verify participation in education or training preparatory to employment pursuant to He-W 637.03(e).

(i) Tuition assistance shall not exceed \$1,575 for any NHEP participant in any 12-month period ending June 30 of each year.

## APPENDIX

<b><u>Rule</u></b>	<b><u>Federal Reg./RSA</u></b>
He-W 636.10	RSA 167:79,VI(a); RSA 167:82,II, III & V; 42 USC 608(a)(2)
He-W 637.06	RSA 167:82,III – V; RSA 167:83,II(o) & III(h); RSA 167:85; 42 USC 607(e)
He-W 637.18	RSA 167:78,XII-a; RSA 167:82,V; RSA 167:85,IV(n); RSA 167:88,IV(a)-(e); RSA 167:91; 42 U.S.C. 608(a)(7)(C)(iii); 45 CFR 260.55
He-W 655.03	RSA 167:86
He-W 655.07	RSA 167:85,IV; RSA 167:86; RSA 167:91,IV; 45 CFR 261.2(i) & (k); 42 USC 607(d)